

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THOUGHT, INC.,
Plaintiff,

v.

ORACLE CORPORATION, et al.,
Defendants.

Case No. [12-cv-05601-WHO](#)

**ORDER GRANTING MOTION TO
SUPPLEMENT INVALIDITY
CONTENTIONS**

Re: Dkt. No. 114

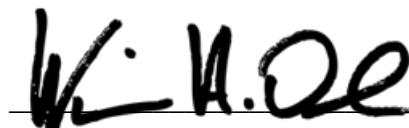
Currently before the Court is Oracle's motion for leave to amend its invalidity contentions to include as prior art references two early versions of Thought's own product: CocoBase 3.1 and 4.0. Thought does not contend it will suffer prejudice from the supplementation and indeed it could not suffer prejudice because the prior art references are its own product. Instead, Thought argues that Oracle has not been diligent in seeking to supplement, asserting that the issue of transparent persistence (to which the new prior art references are material) has been in this case since its inception and should have been included in Oracle's initial prior art searches. Oracle disagrees, specifically referring to documents that it alleges should have been but were not produced earlier and Thought's allegedly incomplete response to an interrogatory.

I GRANT Oracle's motion for leave to amend invalidity contentions to assert the two releases of Thought's CocoBase software, CocoBase 3.1 and 4.0, in place of other prior art. Given both sides' shifting proposals on how to define transparent persistence, Thought's arguable failure to provide a full interrogatory response covering CocoBase 3.1 and 4.0, and the lack of any

prejudice to Thought, supplementation is appropriate.

IT IS SO ORDERED.

Dated: December 3, 2014

A handwritten signature in black ink, appearing to read "W. H. Orrick", written over a horizontal line.

WILLIAM H. ORRICK
United States District Judge

United States District Court
Northern District of California